

Murray Code Enforcement Board Minutes
May 2, 2006

The Murray Code Enforcement Board met in regular session on May 2, 2006 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Bill Adams, Ben Blakely, Charles Chilcutt, Mitzi Key, and Sam Underwood

Board Members Absent: None

Others Present: David Roberts, Jimmy Potts, Chris Scott, Mayor Rushing and Dannetta Cossey

Chairman Ben Blakely called the meeting to order and had an attendance roll call.

Approve Minutes from February 7, 2006 Meeting: Chairman Blakely asked for approval of the February 7, 2006 minutes. **Mitzi McCallon made a motion to approve the February 7, 2006 minutes. Charles Chilcutt seconded the motion.**

Default Case – John Losee: Chairman Blakely called the default case to order and Dannetta Cossey read the case information. Chairman Blakely asked if any Board member had any direct or indirect financial or personal interest in any matter to be decided by the Board. All board members answered no. Chairman Blakely asked the City representative, Chris Scott to come forward and administered the oath. Chris Scott stated that in the spring of 2005 is when he first gave Mr. Losee a verbal warning of vegetation problems and salvage items and that Mr. Losee was given 7days to come into compliance. Since that time, Officer Scott stated that he had issued several written warnings and that Captain Potts had received more complaints and the problem was still on-going. Officer Scott stated they had given him numerous opportunities to rectify the problem but decided to give him another written warning and opportunity to make some progress. Officer Scott said he tried to make contact with Mr. Losee 7days later and noticed several appliances and numerous items. Officer Scott said that Mr. Losee had brought the vehicles up to date but one had a tarp over it. Chairman Blakely asked Officer Scott if he wanted the pictures submitted as evidence. Officer Scott answered yes. Chairman Blakely asked what date the pictures were taken. Officer Scott said that Captain Potts took the pictures but was not sure of the date. Chairman Blakely asked Officer Scott if he felt the pictures were a true representation of the violation. Officer Scott answered yes. Officer Scott continued to say that Mr. Losee has put a carpet pad around the front porch, painted it green and tacked lattice to it. Bill Adams stated he was familiar with the location because 5 or 6 years ago the City council was asked to look into it. Charles Chilcutt said Mr. Losee was brought before the Board last year and it seemed to be an on-going situation which hasn't been remedied. Mr. Chilcutt asked when the \$100.00 per day assessment starts. Dannetta Cossey said it started 7 days after the date of the violation which was March 29, 2006 and that the Board has to side in favor of the City in a default case but the Board has the option of setting a fine and/or lien. At this time,

Mr. Blakely closed the default case. Mr. Chilcutt said he felt Mr. Losee had been given ample time to correct the violations. Mr. Adams asked if the fine was already set in the citation. Dannela Cossey said yes the fine can be set but the Board had the authority to change the fine. Mr. Adams asked if the amount on the notice of violation was the maximum. David Roberts stated that the violation on the Property Maintenance Code for a first offense is \$100.00, second offense is \$150.00 and each additional offense is \$250.00 and in the Property Maintenance Code and Ordinance it is stated that each day can constitute a separate offense. Mr. Adams asked if the \$100.00 per day for 27 days was in force right now. David Roberts stated it was in enforced right now and the Board has the ability to waive any portion of the fine or reduce it and there would be an automatic lien that would go with the fine as well. Mr. Chilcutt asked at what point the lien would be put on the property. David Roberts stated that the respondent has 30 days to appeal a decision of the board so the lien would not go into effect for 30 days. Mr. Roberts said that ultimately the goal is for the situation to be taken care of and the Board has the option to go up to a \$2,700.00 fine and give him 30 days to pay the fine or come into compliance. Chairman Blakely said that Section 12 of the City Ordinance states an appeal from any final order of the code enforcement board may be made to the Calloway County Circuit or District Court within thirty days and at that time, it would be a District or Circuit Court matter. Ms. Key said she felt the fine needed to be a penalty with some impact and if she were a neighbor of his she would want something done. Ms. Key also asked if a lien had to go with the fine. David Roberts stated that according to the way our ordinance is written that a lien is automatic. Mr. Chilcutt stated he felt the Board should find for the City and assess the \$100.00 per day fine. Mr. Underwood asked what would happen if the lien was on his property and he still didn't come into compliance. Mr. Chilcutt said he assumed another notice of violation would be issued. Mr. Blakely stated that the Board's objective is not to collect money but to get it cleaned up and his concern is if the \$2,700.00 fine is assessed, he might not comply but if he's given 30 days to comply before the fine is assessed he might. Mr. Adams stated he felt the lien would be the only way the City could at some point get it cleaned up. Mr. Underwood asked if the fine could continue if Mr. Losee doesn't get it cleaned up. Mr. Adams said the Board could enforce the \$100.00 per day up to \$2,700.00, give additional 30 days to get it cleaned up and if not cleaned up then another \$100.00 per day fine up to \$10,000.00 or a substantial amount could be enforced and a lien placed on the property at the end of the 30 days. David Roberts said that in Section 14 of the Ordinance it states that the city shall possess a lien on property owned by the person found by a final, nonappealable order of the code enforcement board or by a final judgment to the court, to have committed a violation of a city ordinance; Mr. Roberts also stated that in subsection (d) it says in addition to the remedy prescribed in subsection (a), the person found to have committed the violation shall be personally responsible for the amount of all fines and that the city may bring a civil action against the person and shall have the same remedies as provided for the recovery of a debt. Mr. Roberts stated if the fine is high enough and if the city wants to take civil action other than just a lien the city has that option to do so from a legal standpoint. Mr. Adams asked if the respondent owed \$2,700.00 as of today. Dannela Cossey answered yes but the Board does have the right to change that amount if they wish. **Charles Chilcutt made a motion ordering John Losee to pay a civil fine in the amount of \$2,700.00 to the City of Murray within 30 days and to come in compliance of the violations within 30 days. If Mr. Losee fails to comply within the 30 days, he shall pay an additional fine of**

\$100.00 per day for each day the violations continues for a maximum of 45 days and if the violations still exist at the end of the 45 days a lien shall be constituted against the property. Bill Adams seconded the motion and it carried by a 5-0 voice-vote.

Mayor Rushing said that the City really appreciates the Code Enforcement Board and the police officers are going out issuing notice of violations and have had nothing in the past until now to back them up. Mayor Rushing thanked the Board members for volunteering and for everything they do.

Being no further business, Bill Adams made a motion to adjourn.

Chairman, Ben Blakely

Recording Secretary, Dannetta Cossey